

DELEGATED REPORT

Application No:	20/P/1579/OUT	Target date:	08.10.2020
Case officer:	Neil Underhay	Extended date:	07.06.2022
Proposal:	Outline planning application for a residential development of up to 75no. dwellings and associated infrastructure, with access for approval and appearance, scale, layout and landscaping reserved for subsequent approval		
Site address:	Land At Lynchmead Farm, Ebdon Road, Wick St Lawrence, Weston-super-Mare		

The Site

The site is on the north side of Ebdon Road, adjacent to the Weston-super-Mare Settlement Boundary and 'Ebdon Grounds'. It comprises 4.9 hectares of flat agricultural land, including two whole fields and part of two other fields. The fields are contiguous at the northern part of the site, but they are otherwise divided into two parts by cottages fronting Ebdon Road. Site boundaries include mature hedgerows and ditches. Vehicle access to the site is from a farm access in Ebdon Road. The 'Oxhouse' industrial site adjoins the north-east boundary of the site. Land to the north is agricultural.

The Proposal

Outline planning permission is sought to develop the site for up to 75 dwellings. All detailed matters are reserved for future determination, apart from the proposed vehicle access, which comprises two separate entrances from Ebdon Road.

Relevant Planning History

Pre-application planning advice from the Council in 2018 (reference number 17/P/5072/PRE) advised the applicant Policy CS28 of the Core Strategy allows up to 75 dwellings adjacent to the Weston-super-Mare Settlement Boundary provided other criteria and other planning policies are complied with. The applicant was advised that the key planning issues affecting the site are flood risk, landscape impact, ecology, vehicle access and traffic, affordable housing, community Infrastructure and design.

Statement of Community Involvement

The applicants '*Statement of Community Involvement Report*' says pre-application consultation was carried out in 2019. This involved a leaflet drop to 680 properties. Wick St Lawrence Parish Council, Weston-super-Mare Town Council and Kewstoke Parish Council were notified. Forty responses were received. Comments included concerns regarding traffic and road safety, flooding, strain on local infrastructure, construction traffic, loss of green fields and loss of biodiversity.

CS1, CS2, CS3, CS4, CS5, CS13, CS14, CS15, CS16, CS20, DM8, DM9, DM10, DM24, and DM42. This 'Issue' considers the relevance of housing policies, CS13, CS14 and CS28.

Policy Framework

The Development Plan

North Somerset Core Strategy (the 'CS') adopted January 2017

The following policies are particularly relevant to this proposal:

Policy Ref	Policy heading
CS1	Addressing climate change and carbon reduction
CS2	Delivering sustainable design and construction
CS3	Environmental impacts and flood risk management
CS4	Nature Conservation
CS5	Landscape and the historic environment
CS10	Transport and movement
CS12	Achieving high quality design and place making
CS13	Scale of new housing
CS14	Distribution of new housing
CS16	Affordable housing
CS20	Supporting a successful economy
CS28	Weston super Mare

The Sites and Policies Plan Part 1: Development Management Policies (DMP) adopted July 2016

The following policies are particularly relevant to this proposal:

Policy	Policy heading
DM1	Flooding and drainage
DM8	Nature Conservation
DM9	Trees
DM10	Landscape
DM19	Green infrastructure
DM24	Safety, traffic, and provision of infrastructure etc associated with development
DM32	High quality design and place making

Sites and Policies Plan Part 2: Site Allocations Plan (adopted 10 April 2018) – "the SAP".

The following policies are particularly relevant to this proposal:

SA2	Settlement boundaries and extension of residential curtilages
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The site is not allocated for development in the SAP.

Other material policy guidance

National Planning Policy Framework (NPPF) July 2021

The following is particularly relevant to this proposal:

Section No	Section heading
1	Introduction
2	Achieving Sustainable Development
4	Decision-taking
5	Delivering a sufficient supply of homes
6	Building a strong, competitive economy
8	Promoting healthy and safe communities
9	Promoting sustainable transport
11	Making effective use of land
12	Achieving well designed places
14	Meeting the challenge of climate change, flooding, and coastal change
15	Conserving and enhancing the natural environment
16	Conserving and enhancing the historic environment

Supplementary Planning Documents (SPD) and Development Plan Documents (DPD)

- North Somerset Parking Standards SPD (adopted November 2021)
- Creating Sustainable Buildings and Places in North Somerset 2021
- North Somerset Landscape Character Assessment SPD (adopted September 2018)
- North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: SPD (Adopted January 2018)
- Accessible Housing Needs Assessment SPD (Adopted April 2018).
- Development contributions SPD (adopted January 2016)
- Employment led delivery Weston-super-Mare SPD (adopted November 2014)
- Solar Photovoltaic (PV) Arrays SPD (adopted November 2013)
- Affordable Housing SPD (adopted November 2013)
- Travel Plans SPD (adopted November 2010)
- Biodiversity and Trees SPD (adopted December 2005)

Emerging Policy

The council is preparing a new North Somerset Local Plan which will set the framework for development across the district for the period from 2023-2038. The document currently has little material weight.

Consultation summary

Copies of representations received can be viewed on the council's website. This report contains summaries only.

Wick St Lawrence Parish Council:

The parish council is concerned and has raised the same concerns as the local residents, which need to be addressed:

- i) with regard to building on a flood plain and the potential increase in the danger of flooding*
- ii) increase in traffic and associated pollution due to the development as well as a current lack of public transport provision within Wick St Lawrence*
- iii) the proposed cycle route through Wick will increase the number of cyclists on an*

already busy road network before any new development takes place adding more traffic.

v) there will be a further strain on the community facilities locally such as GP surgeries, dentists, schools and the like none of which currently exist within Wick St Lawrence

Many other issues were raised but these have been mentioned in many of the 240+ comments on this application.

Weston-super-Mare Town Council:

The Town Council object to the location of the proposal which is in a L3 flood risk area and considered inappropriate for residential development. There is a very high level of objections which need to be given consideration to which include adverse impacts because of increased traffic movements; exacerbation of issues with farm machinery; lack of public transport provision. As such we would request that the District Councillors for the area 'call-in' the application to North Somerset Council's Planning and Regulatory Committee for consideration.

Environment Agency

Subject to the Council being satisfied with the conclusions of the applicant's 'sequential test', the EA has no objections to the application provided a planning condition is imposed as set out in their letter dated 14 August 2020.

North Somerset Levels Internal Drainage Board

The Board is encouraged by the surface water drainage proposals and the use of shallow swales and other SuDS features, such as permeable paving. These are the only way that the site will drain to the adjacent rhynes under gravity. The Board has no objections subject to a planning condition requiring further details of a surface water drainage scheme.

Natural England (comments dated 12 November 2021)

No objection subject to appropriate mitigation to avoid any harm to integrity of the North Somerset and Mendip Bats Special Area of Conservation. This will require a detailed lighting strategy which demonstrates that the proposal would not result in light spill above 0.5 lux in the proposed dark corridors. It is not however considered that the proposal would have any adverse impacts on the integrity of the Severn Estuary SPA/SAC/Ramsar. In their subsequent email dated 9 June 2022, they say the Lighting Impact Assessment does not provide sufficient certainty to conclude that adverse impact from artificial lighting impacts would not adversely affect European Protected Species.

Avon Fire and Rescue

Will require the development to provide 10 fire hydrants as part of the development plus a 5-year maintenance costs to be borne by the developer.

Neighbours' views

At the time of preparing this report **253** public comments have been received, with **249** objections and **4** in support.

The principal objections against the proposal are as follows:

- Lack of community involvement leading up to the application.
- Planning policies do not support housing in the Countryside.
- No need to develop greenfield land when plenty of brownfield sites exist.
- Ebdon Road is a natural barrier to housing development and housing on its rural side will detract from the character and appearance of the landscape.
- The local approach roads including Ebdon Road already incur excessive daily traffic flows including 'rat-runs' through the narrow rural lanes of Wick St Lawrence and Bourton, which creates environmental and safety problems. This will be made worse by the proposal with increased traffic, increased speeding, increased antisocial driving noise and actions, all of which are detrimental to resident's health and welfare, something that the council has a duty of care to deliver to all residents.
- This is a car borne location with no public transport close to the proposed development so most outward trips will be vehicle related, making it an unsustainable location for more housing. The development will also give rise to causing congestion, noise, and other environmental pollution.
- The proposed vehicle access points to the site are dangerous.
- There are no footpaths on this side of Ebdon Road and crossing the road to access routes to schools and open space would be dangerous for pedestrians.
- The Grade II listed Ebdon Bow Bridge over the River Banwell will fail to cope with the increased traffic causing irreparable damage.
- The site was supposed to be developed for sports pitches, which never came to fruition. This would be a more suitable use.
- There is a lack of local amenities to serve the development including parks, play space, shops, and other outlets.
- Local schools and health centres / hospitals (A&E) are already over-subscribed so it's difficult to see how this will be a good location for families.
- The development will have a detrimental impact to the environment on biodiversity. The ecological report has identified priority species in the area and the mitigating actions put forward by the developer (a hand search and relocate some species) does not justify destroying part of their natural habitat.
- The site is in a flood plain and there is recent evidence that the site has flooded multiple times in recent years. Its development for housing would cause increased flood risk to nearby agricultural land and residential property. The proposal fails to pass the 'exceptions test' in that it will not deliver significant benefits to the community that outweigh the flood risk.
- The sum of the above amounts to an unsustainable development

Points made in support of application

- There is a proven need for more houses including affordable housing
- Attractive area for new housing

Environmental Impact Assessment (EIA) Screening

The proposed development falls within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 – Column 1, Part 10 (b), but it does not meet the thresholds set out in Column 2, nor does it fall within a 'sensitive area' as defined in the Regulations. An EIA screening opinion is not, therefore, required.

Planning Issues

Issue 1: Most Important Policies / 'Tilted Balance'

The most relevant development plan policies have already been listed.

Planning law¹ requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF says the same in paras 2, 12 and 47. The weight that can be applied to development plan policies however depends on the age of the policies, their consistency with the NPPF and the Council's current supply of deliverable housing land.

The latter point is addressed in para 11. The second of para 11 applies to decision taking and sub-point d) It says

where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

Footnote 8 of the NPPF applies to Para 11d says "This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer...". Footnote 7, which applies to Para 11 d) i clarifies that 'assets of particular importance include: "policies referred to are those in this Framework (rather than those in development plans) relating to...areas at risk of flooding..."

Two recent planning appeal decisions (ref no. APP/D0121/W/21/3286677 15 June 2022 for up to 100 dwellings at Rectory Farm, Yatton, and ref no APP/D0121/W/21/3285624 22 June 2022 for up to 125 dwellings on land at Farleigh Farm, Backwell) concluded that the Council's current housing land supply is 3.2 and 3.5 years respectively.

Under para 11d this means that the most relevant policies are deemed to be out-of-date, and therefore have limited weight. The so-called 'tilted balance' is therefore engaged, which **changes the 'balancing exercise' in favour of approving an application, unless** the harm arising from it would significantly and demonstrably outweighs its benefits.

However, because the application is considered to fail a flood risk sequential test (see Issue 3), the 'tilted balance' is disapplied, in which case, determination reverts to being in accordance with the development plan unless material considerations indicate otherwise. That the Council does not currently have a five-year supply of deliverable housing land is a material consideration.

Issue 2: Housing Policy

Policy CS13 sets the housing requirement over the CS Plan period and CS14 is the distribution strategy for new housing. CS14 identifies Weston-super-Mare as the focus for new housing over the plan period. CS28 ('Weston-super-Mare') of the CS supports planning applications for up to 75 dwellings adjoining the Weston-super-Mare Settlement

¹ Town and Country Planning Act 1990, section 70(2) and Planning and Compulsory Purchase Act 2004, section 38(6)

Boundary, subject to compliance with environmental criteria (respect character and heritage of Weston-super-Mare; support and enhance green infrastructure and biodiversity; improve accessibility; and ensure services and infrastructure support development).

The number of dwellings in this application complies with CS28. Other criteria of CS28 are addressed in the other planning issues.

Issue 2: Employment Contributions

Policy CS28 also says residential development will be delivered in accordance with the employment led strategy and it refers to policy CS20 ('Supporting a successful economy') to do this. This policy says: *"Throughout Weston-super-Mare [housing] proposals should provide for 1.5 jobs per home over the plan period both at Weston Villages and elsewhere on sites of 10 or more dwellings...If on-site provision is not suitable, financial contributions will be sought towards economic development through...planning obligations."* Contributions will be focussed on initiatives to support the employment in the town.

The applicant has agreed to meet the economic financial obligation applicable to this proposal. The application therefore complies with CS20.

Issue 3: Flood Risk and Drainage

The site is in a 3a 'High Probability' tidal flood zone in the Council's 'Level 1 Strategic Flood Risk Assessment' 2020. This is land which has a 1 in 200 or greater annual probability of sea flooding. National policy on planning and flood risk is set out in paras 159 to 169 of the Framework and in the National Planning Practice Guidance (PPG).

Para 159 says: *"Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk"*. Para 161 of the Framework says: *"plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property"*. Para 162 says: *"Development should not be...permitted [in higher risk flood zones] if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding."* The process to establish this is a flood risk sequential test (hereafter refer to as the 'ST'). Para 163 says if it is not possible for development to be in areas with a lower risk of flooding the exception test (hereafter refer to as 'ET') may have to be applied.

The NPPG 'Flood Risk Vulnerability Classification' Table clarifies that 'More Vulnerable' Uses, including housing, must pass an 'Exception Test'. Para 164 says that to pass an ET, points a) and b) below must be satisfied:

- the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Para 167 of the Framework requires proposal to be supported by a site-specific flood-risk assessment.

Policy CS3 accords with the NPPF and PPG, and it clarifies that says a ST shall be district-wide for housing proposals outside settlement boundaries, such as this proposal. The policy also says, “*other Local Development Documents may define more specific requirements*”. The Council’s 2019 ‘*Development and Flood Risk Issues*’ Advice Note does this.

Neither the NPPF nor PPG define what is meant by ‘*reasonably available*’ sites, but the Council’s Advice Note 2019, which is consistent with para 162 of the NPPF and is more up to date than CS3 (2017), says a site is “reasonably available” if the following criteria is met:

- The site is within the agreed area of search.
- The site can accommodate the requirements of the proposed development. Applicants should consider the potential for splitting the development over more than one site. This will be particularly relevant to sites for housing.
- The site is either:
 - - the subject of a valid planning permission for development of a similar character and scale; or
 - identified as having development potential within the required timescale, either in the SHLAA or in a Local Plan policy or supporting evidence; or
 - in the case of small sites, for sale and not subject to known planning constraints

Some recent planning appeal decisions have clarified how the ST should be applied.

In an appeal decision for housing at Ferry Road, Rye, Kent, in February 2022 (APP/U1430/W/21/3273344), the Inspector says sites in lower flood risk zones should not be discounted because they are not available now, and it would be short-sighted to exclude sites that might come forward soon. What is meant by “soon” is unclear but potential housing sites in the 2022 SHLAA, as indicated in the ‘Advice Note’ should be considered.

An appeal decision for housing at Albert Road, Portishead, February 2022 (APP/D0121/W/21/3279097) says sequentially preferable sites can include sites that do not have planning permission. Furthermore, land ownership and planning are independent of each other, which means that alternative sites with a lower flood risk should not be excluded because they are not owned by an applicant. This accords with the Council’s 2019 Advice Note 2019, which does not require sites to be reasonably available to a particular applicant, they merely must be “reasonably available”.

The Inspector gave the Council’s Flood Risk Advice Note ‘significant weight’ in that decision, which suggests that the criteria it uses to determine what is “reasonably available” is acceptable.

The Sequential Test

The applicant’s initial ST which was supplemented with further information considered alternative sites at Weston-super-Mare; Banwell; Barrow Gurney; Bleadon; Churchill; Clevedon; Congresbury; Long Ashton; Nailsea; Winscombe; Wrington and Yatton. This included allocated housing sites, sites in the 2018 Strategic Housing Land Availability Assessment (SHLAA), and sites with planning permission for housing. The applicant rejected all potential sites. Many sites were rejected because they were simply unavailable

to the applicant, although the housing capacity of some sites were smaller than the number of dwellings in the current application.

Since the applicant carried out and supplemented their ST, the 2018 SHLAA has been superseded by the 2022 version. This is an important evidence base for the emerging North Somerset Local Plan 2023-2038 (NSLP). The 'Preferred Options' version of the emerging NSLP was recently consulted upon and responses are being considered. The 2022 SHLAA provides many opportunities for housing allocations in the new local plan, including a wide range of sites in flood zone 1. The applicant refreshed their ST taking account of the 2022 SHLAA. This considers 31 further sites. As with their initial ST all sites have been rejected.

Officers have considered the sites looked at by the applicant in their updated ST, and the reasons given for rejecting them. Officers consider the applicants have not provided sufficient reasons to discount them. Some sites are rejected by the applicant because they are not reasonably available to them. This is not a sound reason to discount to them however, and in any event the appellant has not provided any evidence that they have actively sought to engage with the landowners to see if they would accommodate their proposals.

They also reject sites due to the projected timeframe to realise planning permission. Again, there is no evidence to substantiate this. Some other sites are rejected because they would require ecological surveys and /or mitigation, heritage assessments. They would involve developing high grade agricultural land, adjoin SSSI's or that they would, individually deliver less than the number of dwellings currently proposed. In the officers' opinion, these reasons are not necessarily decisive or insurmountable reasons to discount these sites from being potential alternative housing sites.

There are also several sites in the 2022 SHLAA that have not been considered by the applicant (references number HE20500; 201086; 202000; 201016 and 20594, all of which are sequentially preferable to the current site.

One of the sites in the 2022 SHLAA that is considered by the applicant in their ST is land at Anson Road, Worle, which adjoins the WSM Settlement Boundary. The applicant submitted a planning application for up to 70 dwellings on this site (ref no. 21/P/3529/OUT) which is currently under consideration. This site is in flood zone 1 (the lowest flood risk zone) and it is less than 1KM from Lynchmead Farm and the scale of the proposed development is similar.

The applicant initially contended the Anson Road site is not 'reasonably available' to them because they don't own it and it is not currently for sale. The referred appeal decisions however shows that land ownership and planning is independent of each other, and this is not a sound reason to reject a site because it is not owned or available to an applicant. The fact that the applicant has applied for planning permission for housing at Anson Road would however indicate that they have an interest in it, and the application documents clearly indicates that they believe it is suitable for a similar scale of housing to the Lynchmead proposal.

In their updated ST, they say that even if the LPA were to grant that application, it would not resolve the five-year housing land supply deficit. That is true, but this is a separate matter. The only relevant issue for the ST is whether, or not, the proposed development can be provided on land with a lower flood risk.

Since the revised ST was submitted, the planning appeal referred to earlier in this report (Rectory Farm, Yatton) has also been allowed. That site is not considered in the applicants ST, but it is also in flood zone 1. As with the Anson Road site the applicant for the current application was also the appellant for that case, meaning it is another site that they have an interest in, and which is in a sequentially preferable location. It meets all requirements to be 'reasonably available'.

In the officers' view the applicant fails to demonstrate that the development could not be delivered on 'reasonably available' land with a lower flood risk. The development is unnecessary in flood zone 3a and the sequential test is "failed". This conflicts with para 159 and 162 of the NPPF and policy CS3.

Exception Test

Para 163 of the NPPF says if it is not possible for development to be in areas with a lower risk of flooding, the **ET** will be applied. This implies that where it is possible for housing development to be in areas of lower flood risk, or where an applicant hasn't demonstrated they can't deliver it in lower flood risk zones (which applies to this application for the reasons reach for the ST) the 'exception test, is academic. Notwithstanding this, officers have considered the applicant's ET

For clause a) of the ET to be passed the PPG (para 037 ID ref 7-037-20140306) says: *"Evidence of wider sustainability benefits to the community should be provided, for instance, through the sustainability appraisal". Further, "Local planning authorities will need to consider what criteria they will use in this assessment. If a planning application fails to score positively against the aims and objectives of the Local Plan Sustainability Appraisal or Local Plan policies, or other measures of sustainability, the local planning authority should consider whether the use of planning conditions and/or planning obligations could make it do so."*

The Council's 2019 Advice Note considers 'What are "wider sustainability benefits to the community"'. This includes environmental, social, or economic benefits. It says: *"to pass the Exception Test the proposal must provide sustainability benefits beyond the application site, for the community"* which clearly outweigh the underlying flood risk. It gives examples of this including:

- Affordable housing to meet an identified local need in a suitable location
- Remove pollution
- Assist in the regeneration of an area
- Visually enhance a site to the benefit of the character of an area
- Relocate an existing use closer to public transport thus reducing the amount of traffic on the road.

The applicant says that delivering up to 75 dwellings, including up to 23 affordable homes represents significant social and economic benefits, especially against the Council not having a five-year housing land supply, and with a demonstrable need for affordable housing. The applicants also say sustainable construction will deliver reduce energy demand reduction and carbon emissions, and the scheme will deliver extensive green infrastructure and public open space.

Officers agree that additional housing, both market and affordable, in the right location can have significant social and economic benefits. To conclude however, that affordable

housing would, by itself, justify major housing development in a 3a flood zone, something that could be repeated, is tenuous, and it would undermine the objective of avoiding development in a higher risk flood zone. There would have to be other wider sustainability benefits to reach a point where the development proposal would clearly outweigh the flood risk.

The proposal would contribute to improve local employment opportunities (required under Policy CS20), but the aim of the policy is to neutralise the impact of housing growth and increased out-commuting from a larger population. Overall, therefore, it has a neutral impact.

The applicant projects that residents of the new development will inject increased expenditure into the local economy and will maintain and improve the viability of existing shops, facilities, and services. Furthermore, the construction phase will create a significant number of jobs including a range of skilled and unskilled positions. Both elements have economic benefits, although there is nothing to demonstrate that the viability of local business are dependent increased local expenditure, and that construction jobs, while important, is a temporary benefit. These are moderate benefits.

The applicant says the illustrative masterplan indicates there to be 2.09ha (17,686m²) of Public Open Space which includes 11,239m² of Neighbourhood Open Space, 3,726m² of Wet Woodland and Conservation areas including Green Corridors, and 400m² for an equipped play area. This exceeds the on-site open space policy requirement of 5,096m². An oversupply of neighbourhood open space at the site would benefit those living at the site, but this would be an integral part of this development, and it is less likely to have a benefit to the wider community.

The applicant has offered to reinstate failed tree planting covering an area 30 metres by 10 metres on the Ebdon Road Ground Village Centre Green and maintain this for 10 years. They say this could be secured by Planning Obligation and it would be a wider sustainability benefit. This cannot be considered as a S106 planning obligation however because it falls into the scope of public realm improvements, which is covered by the Council's 'Community Infrastructure Levy' (CIL). It is by no means certain that CIL sums would be directed to works at off-site open space. It cannot be considered as wider sustainability benefit.

The applicant contends that the proposal would deliver will provide 33% Biodiversity Net Gain for habitats centred around and a 51% increase in hedgerow as was set out in an Addendum Note produced by EDP in March 2021. This is a wider sustainability benefit.

The transport and landscape impacts are considered acceptable in planning terms (see Planning Issues 3 and 4), but they do not provide wider sustainability benefits or result in regeneration. In fact, both result in some level of harm, but not unacceptable harm.

The nearest secondary school to the site is 'Priory' School. The applicant is aware that its AstroTurf pitch is deficient and needs resurfacing. They offer a financial contribution of £50,000 to assist with this. Off-site improvement such as leisure services is not a matter for S106 as it is addressed through the Council's 'Community Infrastructure Levy'. This is not treated as a wider sustainability benefit, but rather a mitigating factor. There are no certainty monies received under CIL would be directed towards Priory School.

The proposal would not result in wider sustainability benefits of the type listed in points 2 to 5 inclusive above of the Council 2019 Advice Note.

Overall, there are some wider benefits to the community that would result from this application, including the benefit that the proposal would have in terms of reducing the 5-year under supply of housing land and the inclusion of affordable housing and BNG. These are not however considered to clearly outweigh flood risk. The proposal fails part a) of the Exception test.

For part b) of the Exceptions Test the applicants have submitted a site-specific Flood Risk Assessment (FRA). This sets out the strategy to reduce the risk of the site being flooded, includes sustainable drainage systems and reducing any flood risk off the site. The Council's Flood Risk Management Team and the North Somerset Levels Internal Board, both consider that the applicant's Flood Risk Assessment has demonstrated that, in principle, the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere. Part b) of the exception test is passed.

Overall, however, the application fails the exception test.

Issue 4: Transport and Highway Issues

Policy DM24 of the DMP says: *“Development giving rise to a significant number of travel movements will only be refused on transport grounds if it is likely to have a severe residual cumulative impact on traffic congestion or on the character and function of the surrounding area; or is not accessible by non-car modes or cannot readily be integrated with public transport, cycleway and footpath links.”* Furthermore: *“Development will be permitted provided it would not prejudice highway safety”*. Policy CS28 requires housing proposals to improve accessibility by walking, cycling and public transport, particularly where they enhance connectivity with, for example, local facilities.

The application site is approximately 360 metres walking distance from the nearest local facilities at Ebdon Grounds and approximately 650 metres to the local centre at the junction of Wansbrough Road / Becket Road and bus stops at Castle Batch. These bus stops are used by the 'number 7' bus service which provides a frequent service through Weston. The walking distance is acceptable and the route to/from these bus stops from the application site is generally flat.

Reaching these facilities from the application site would require a foot/cycle path on the north side of Ebdon Road in the soft verge between the two proposed vehicle access points. At the western end of a new foot/cycle path a 2-metre-wide crossing of Ebdon Road is also needed (defined by road markings) and a 2-metre-wide footpath is required on the southern side of Ebdon Road linking it with the footpath on the north-eastern side of The Cornfields. The applicant has indicated they would provide these works, which can be secured by planning conditions. This will integrate the application site with the existing foot and cycle path network, providing a safe and convenient route to local services.

The resulting footpath network would also provide safe walking links to the nearest primary and secondary schools (Priory Community School and Worle Community School and Castle Batch, St Marks, and Becket primary schools), which are within statutory walking distance of the site. The projected pupil yield from the development is 30 primary and 22 secondary pupils at any one time. Pupil projections for North Somerset 2019-2023 indicate that there is sufficient capacity at local schools to accommodate the anticipated demand from the proposed development. The proposed development would be required to make Community Infrastructure (CIL) payments which are distributed amongst public services including education.

To encourage a modal shift away from vehicle trips, especially single occupancy car journeys, it is necessary to promote sustainable travel options to residents. Should the application be approved, the developer would be required to contribute towards bus 'taster tickets' at a fixed sum per dwelling, to be secured by a legal agreement. It is also necessary for the development to produce a sustainable residential travel plan identifying identify measures, means and targets to ensure the reduction in numbers of trips by resident's private cars as well as monitoring and mitigation measures to ensure that the targets are achieved. This would be secured by a planning condition.

Subject to the above works and measures, the site is a sustainable location in terms of accessing local facilities, services, by different travel modes, and in terms of onward travel and accessibility within Weston-super-Mare.

The applicant's Transport Assessment (TA), using the industry accepted 'TRICS' (Trip Rate Information Computer System) database, projects that the proposed development would generate 37 vehicle movements (single direction movements to or from the application site) during the Monday-Friday AM peak of 08:00-09:00 Hours, and 36 vehicle movements during the Monday-Friday PM peak which is 17:00 Hours to 18:00 Hours. Vehicle trips numbers at other times of the day and at weekends are expected to be less concentrated.

Put into context, 382 daily vehicles movements (average) passed the application site along Ebdon Road in 2020 during the AM peak. An increase of 37 vehicle movements equates to a 9.6% increase. A 9.3% increase is expected in the PM peak. Officers consider this level of increase and the resulting overall traffic volume on Ebdon Road during AM and PM peaks will not have severe or significant cumulative impacts on local highway conditions in terms of safety, convenience, and the character of the area. The resulting traffic generation would remain well within the reasonable operating capacity of that road.

Based on extrapolated projections from manual sample traffic counts, it is expected that an additional 33 vehicles movements would be directed through the roundabout between Queensway and Ebdon Road during the AM peak, with an additional 32 movements expected during the PM peak. The Queensway and Bristol Road junction is likely to see a maximum of 15 additional vehicle movements in the AM and PM peak hours, whilst the junction between the A370 and Wick Road (which passes through rural roads) is likely to see a peak hour increase of 5 vehicles. The impact on the safety and character of the rural roads through Wick St Lawrence and Bourton is not significant, and no off-site road works are required through the lanes, including safety barriers alongside rhynes.

The applicant's traffic projection does not include traffic projections from other proposed or committed development, including their own current planning application for up to proposal for up to 15 dwellings on land at Oak Farm, Ebdon Road (planning application reference number 20/P/1580/OUT). That proposal development is projected to produce 8 peak hour vehicle trips hour along Ebdon Road. In addition, there is an allocated site for 12 houses at Orchard House, Ebdon Road, although this would add no more than 6 additional movements trips in the peak hour. The cumulative traffic impact is not considered to result in significant adverse impacts on the transport network in terms of convenience, road capacity or road safety impacts.

Two proposed vehicle access points into the development site are located on Ebdon Road, which is subject to a 30-mph speed limit where it passes the site. The western most proposed access point would exit/enter the site via the Cornfields/Ebdon road junction mini roundabout. Another new access is proposed 120 metres further east along Ebdon Road.

The visibility splays at these junctions demonstrates that, from a point 2.4m back from the carriageway, 43m of visibility is achievable at the proposed vehicle accesses. This is acceptable based on the guidance set out in 'Manual for Streets'.

A Stage 1 Road Safety Audit (RSA) for the proposed new vehicle access points was carried out by the applicant. This demonstrates that the proposed vehicle access points would allow larger vehicles, such as a refuse vehicle or a fire appliance, to enter and leave the site safely. The width and alignment of Ebdon Road leading to and from the site is also acceptable for larger vehicles.

Some objectors say the 'Grade II Listed' road bridge near the junction with Ebdon Lane/Bourton Road is unsuitable for added traffic due to its width, profile, and weight limit. Officers consider a small increase that is likely to result from the development is acceptable, but no construction traffic associated with the development should use it. This can be secured through a construction management plan.

The development will be required to provide sufficient car and cycle parking to meet the Council's parking standards. Car Parking requirements will include Electric Vehicle charging. The requirements are set out in the Council's 'Parking Standards Supplementary Planning Document' November 2021. This can be controlled through a planning condition.

Subject to the above requirements, there is no transport or parking objections to the proposal.

Issue 5: Landscape and Visual Impacts

The site contributes to the open character of the rural edge, but it is not subject to national or regional landscape designations.

Policies CS5, CS28 and DM10 are relevant, however, and they require development proposals to protect and enhance the character, distinctiveness, diversity, and quality of the landscape. While these policies are deemed to be out-of-date because the Council cannot currently demonstrate a five-year housing land supply, they otherwise accord with Section 12 ('Achieving well designed places') of the Framework which says (para 130 clause c): "*planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting*". It is therefore considered these policies should still be afforded substantial weight in this application.

CS5 and DM10 refer to the 'North Somerset Landscape Character Assessment Supplementary Planning Document' 2018 (the 'LCA'). Policy DM10 says development: "*should not have an unacceptable adverse impact on the designated landscape character of the district as defined in the LCA*".

The site is in the '*Kingston Seymour and Puxton Moors*' LCA. This is notable for its flat landform; pastoral landscape; scattered farmsteads; network of water courses; hedgerows interspersed with trees and winding rural roads. The landscape character is described as "*strong*" with the landscape condition being "*good*". Its strategy is to "*conserve the existing landscape of strong character and good condition typified by the highly rural, remote pastoral grassland with strong networks of drainage channels and hedgerows and winding rural roads between historic villages and farmsteads.*"

The applicants '*Landscape and Visual Appraisal*' (LVA) acknowledge (para 3.6.12) that the site has some characteristics of the wider '*Kingston Seymour and Puxton Moors*' LCA

including its flat landform, ruralness, pastoral character, rhynes ditches and hedgerows and semi-enclosed views. However, they contend (para 3.6.14) the immediate setting comprising the 'Oxhouse' Business Units, cottages, and extensive Ebdon Grounds housing development opposite, does not have the rural character or remoteness, that exists further into the countryside.

The LVIA considers the visual impact of the proposed development from 6 public viewpoints.

- Viewpoint 1 from the junction of Ebdon Road and The Cornfields, looking north-west towards the site about 15m from the site boundary. From here, parts of the application site are seen above and through the roadside hedgerow.
- Viewpoint 2 from Ebdon Road is also about 15m from the site, from the roadside footpath near to Azalea Road. This shows the eastern part of the site, with Lynchmead Bungalow to the west and the Oxhouse Industrial Estate to its east.
- Viewpoint 3 from Collum Lane is about 800m to the north-east of the site, looking across the moors. Oxhouse Industrial Estate and 'Stroud' and 'Nut' Cottages are seen in this view.
- Viewpoint 4 is from a bridleway about 1.95km north-west of the site. Oxhouse Industrial Estate can be seen in the distance, as can some houses in Ebdon Road.
- Viewpoint 5 is from National Trust land at Middle Hope, about 2.8km north-west of the site about 35metres Above Ordnance Datum. Oxhouse Industrial Estate and Stroud and Nut Cottages can just be seen in the distances.
- Viewpoint 6 is from a bridleway on Worle Hill, about 965m south-west of the site about 78m Above Ordnance Datum. Stroud and Nut Cottages and Oxhouse Industrial Estate can be seen, although much of the site is hidden by vegetation.

The applicant's illustrative layout plan shows dwellings distributed amongst five development parcels. Most hedgerows and ditches are retained and added to with new planting. The applicant considers the proposal would be well-contained in the landscape and will not have an unacceptable impact on the character and appearance of the landscape.

Officers' comments

The indicative layout plan shows that most dwellings are set back from Ebdon Road. Upper walls and roofs of most houses (some are said to be 2½ storeys high) will be taller than the 'Oxhouse' buildings, and they will stand out above retained and new vegetation, such as from Viewpoints 1 and 2. Other close-range views into the site from Ebdon Road will be gained where the two vehicle access points open-up views. The result will be a large and bulky development. This would transform the character, appearance and feel of this section of Ebdon Road from a semi-rural road to one that has a more built-up urban character on both sides, for a limited section of the road. The resulting impact is likely to be significant and adverse, but localised.

From Collum Lane (Viewpoint 3) the upper parts of the Oxhouse building estate can be seen in the middle distance, which suggests the same would apply for the proposed houses. The impact of this will be minor during the autumn and winter months, and minor or negligible in the spring and summer with intervening vegetation in leaf. Views of the proposed development from the bridleway (Viewpoint 4) are likely to be minor.

Middle Hope (Viewpoint 5) is an extensive elevated landscape. Walking routes are distinguished by trodden paths, but the public can walk large parts of it unhindered. Some

farmsteads near to the application site can be seen at distance, but other features including Sand Point; Worlebury Woods and the North Somerset Coastline, are more dominant. The application site is a slither in a wider setting. Its development is likely to have a minor visual impact.

Viewpoint 6 provides is an elevated view towards North Worle and Wick St Lawrence, where small gaps exist in the vegetation adjacent to a Public Right of Way between Worle Quarry and Worlebury Golf Course. Views in the direction of the site extend beyond Weston-super-Mare towards the coast and Clevedon. The built-up Weston Settlement Boundary adjoins the winding alignment of Ebdon Road, with buildings becoming increasingly sparse to the north side of the road. Oxhouse Industrial building stand out because of its light colour. The development site protrudes out at right angles from Ebdon Road into the countryside. This may draw attention to it, but its overall impact in the wider view is likely to be moderate at this distance.

The site is unlikely to be seen from Castle Batch: an elevated public open space approximately 500 metres to the south. The height of the roadside hedges along the northern side of Ebdon Road largely prevented views of the 'Oxhouse' Industrial Building (an adjoining reference point) except when close to its entrance when approaching in a westerly direction along Ebdon Road. The same would be likely to apply to the proposed development.

Summary

Policy CS28 supports the principle of planning applications for up to 75 dwellings on land adjoining the settlement boundary. Since most land adjoining the Weston Settlement Boundary are fields, this policy is tacit acceptance that housing proposals will inevitably cause some degree of harm to the landscape. In this case, the landscape and visual harm is likely to be limited to views on or near to Ebdon Road, and private views from nearby houses. This is regrettable, but it is not a sensitive landscape in the national landscape hierarchy, and the impact on the wider landscape is likely to be low. On balance, there are no landscape objections to the proposal.

Issue 6: Biodiversity

The Natural Environment and Rural Communities (NERC) Act 2006 places a duty on Local Authorities to have regard to the conservation of biodiversity in exercising their functions. The Conservation of Habitats and Species Regulations 2017 (*'The Regulations'*) also apply. Their objective is to protect biodiversity through the conservation of natural habitats and species of wild fauna and flora and it sets out legislative protection measures for such habitats and species. The Regulations also provide protection for designated sites supporting internationally-important habitats or populations of such species, known as *'European Sites'*.

Policy CS4 (Living within Environmental Limits) of the CS promotes amongst other issues, the protection and enhancement of biodiversity including designated and local wildlife sites, protected species, and ecosystems. The approach is reflected in policies DM8 and DM9 of the DMP. While these policies are deemed to be out-of-date because the Council cannot currently demonstrate a five-year housing land supply, they otherwise accord with paras 174, 179 and 180 of the NPPF, and they should be given substantial weight in this appeal.

The North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: Supplementary Planning Document (Adopted January 2018) provides guidance on the impact of development on Bats.

The application includes an 'Ecological Impact Assessment'. This examines the ecological baseline of the site in terms of its conservation importance; habitats within and surrounding the site; protected and notable species; the impact of the proposal on the ecological baseline during and post construction; avoidance, mitigation, compensation and enhancement opportunities and residual and cumulative impacts.

This follows Phase 1 habitat, hedgerow, great crested newt, reptile, breeding bird, wintering bird, dormouse, bat, badger, otter, and water vole surveys. The key results are summarised as follows:

- The site does not lie within or adjacent to any designated sites of nature conservation importance.
- Five European designated sites occur within 10km of the site. This includes the North Somerset & Mendip Bats SAC, although the application is outside its consultation zones.
- The site comprises four semi-improved and improved grassland pasture fields, species-poor hedgerows, and wet ditches.
- The survey area provides suitable breeding and terrestrial habitat for common and widespread amphibians, including common toad (a Priority species).
- A great crested newt eDNA survey was undertaken of ditches within the survey area and one off-site pond. The results of the eDNA survey were negative, indicating that the species is absent from the site.
- A 'Low' population of grass snake was recorded within the survey area. Suitable reptile habitat was restricted to the field margins, with most of the short-grazed grassland within the site unsuitable for reptiles.
- The survey area provided nesting habitat for widespread bird species, including notable species such as house sparrow, spotted flycatcher and dunnock, all Priority Species.
- No dormice, or evidence of dormouse activity, were recorded within the survey area during the survey.
- A two-entrance outlier badger sett was recorded within application site and an additional subsidiary badger sett was recorded to the north within the wider survey area. The site provides suitable foraging habitat for badgers, and evidence of foraging badgers were recorded throughout the site.
- A minimum of 10 bat species were recorded foraging and/or commuting within the survey area during the bat survey. Common pipistrelle was the most abundant species; several light-sensitive species were recorded including greater and lesser horseshoe, Myotis species, long-eared species, and barbastelle bat. Greater horseshoe bat activity within the site was moderate. The highest levels of bat activity were recorded along the hedgerow that runs through the centre of the site from north to south. No bat roosts were identified.

- No signs of otter were recorded during the survey of the ditches within the site. However, given the favourable conservation status of the species in the locality, the ditches are likely to be periodically used by otters moving through their territory.
- No signs of water vole were recorded during the survey of the ditches within the site.
- The site provided suitable habitat for hedgehog and water shrew, which may occasionally occur within the site. Hedgehog is a Priority species and water shrew is a North Somerset BAP species

Site clearance would result in the loss of amenity, improved and poor semi-improved grassland and approximately 520m of species-poor/defunct hedgerow. The applicants say new landscape proposals would include native scrub planting, wildflower meadow seeding, scattered native tree planting, new native species-rich hedgerow, wetland meadow seeding and marginal vegetation planting around a network of swales. They contend this would mitigate habitat loss in the medium-term, as new habitats established.

Site clearance would also result in loss available habitat for protected and notable species during construction and there is the risk of direct impacts (i.e., killing or injury) to common amphibians, reptiles, nesting birds and hedgehogs. There would also be the potential for disturbance to commuting and foraging bats arising from lighting during and post-construction. The applicant proposes measures to avoid, mitigate and compensate negative effects and provide ecological enhancement.

Officers consider that most construction impacts can be mitigated by a construction environmental management plan, and that replacement planting can deliver biodiversity net gain.

Artificial lighting from the development during construction and the operation of the development adjacent, has, according to the Council's ecologist and Natural England, a clear potential to unacceptably harm Bat feeding and foraging routes. Natural England's most recent comments consider that the applicants 'Lighting Impact Assessment', which was submitted in response to a request for more information, still does not show the full extent of the light spill of 0.5 lux, which is a significant issue in terms of determining the impacts on European Species. To that extent, NE consider (their comments dated 9 June 2022) *"Due to light spill at 0.5 lux occurring in the proposed dark corridors we do not currently concur with the conclusions of the HRA that the proposal would not result in an adverse impact on the integrity of the North Somerset and Mendip Bats SAC, as a result of light spill onto proposed horseshoe bat commuting corridors."*

These comments do not suggest that this is insurmountable, but it is a holding objection in that there continues to be a lack of information to disprove a concern that the proposal could give rise to significant and adverse effects on European Species. This cannot presently be mitigated by planning conditions.

The proposal would therefore have a clear potential to adversely affect European Species which is contrary to policies CS4 and DM8 of the development plan, and paragraphs 174, 179 and 180 of the NPPF.

Issue 7: Agricultural Land Classification

Paragraph 174b of the NPPF states that planning decisions should contribute to and enhance the natural environment by: *"recognising... the economic and other benefits of the best and most versatile agricultural land..."* The applicants 'Agricultural Land Quality'

report November 2020 provides a site-specific assessment of the soil quality at the site. This concludes that the soil quality is 3b Moderate quality) meaning that it is not Best Most Versatile agricultural land in Natural England's Technical Note TIN049 (2012). There are no agricultural land quality objections to the application.

Issue 8: Affordable Housing

Policy CS16 of the CS requires housing developments of 10 or more dwellings to provide a benchmark of 30% of the properties as 'affordable housing' on site as part of the development, at nil public subsidy, with a tenure split of 77% social rent and 23% shared ownership. Affordable Housing typically comprises social rented, affordable rented and intermediate housing provided to eligible households whose needs are not met by the market. The applicant says, "*The proposed development will accord with Policy CS16 (Affordable Housing) of the Core Strategy*" and says, "*should the final development be for 75 dwellings then it will include 23 affordable homes.*" This is policy compliant.

Issue 9: Housing Design Requirements

Although design is set aside for separate 'Reserved Matters' approval, the following principles apply.

Policy CS15 (*'Mixed and balanced communities'*) of the CS expects housing proposals to provide "*genuine mix*" of housing to meet local needs. The proposal includes 30% affordable housing, and the applicant's Design and Access Statement proposes a variety of different house sizes. The proposed net density is circa 26 dwelling per hectare (dph). This is lower than the expected housing density at some new major development sites in North Somerset, such as 'Parklands' and 'Haywood Village' at 40 dph, but a lower density is more suitable for the rural edge. The housing mix and density is acceptable.

Policy DM42 requires proposals to comply with the DCLG's *'Technical housing standards – nationally described space standards'*. This requirement can be controlled through a planning condition. DM42 also requires housing proposals to include a proportion of dwellings constructed to Category 2 standard of the Building Regulations. The Council's 'Accessible Housing Needs Assessment SPD' 2018 says (para 26) "*When the population of North Somerset is age standardised the overall number of people with activity limitations is 17.7%.*" These requirements can be addressed through planning conditions.

Policy CS2 of the Core Strategy requires that 15% of the ongoing energy requirement for the use of the development should be met through micro-renewable technologies. This requirement is over and above energy savings that can be made through the design and construction of dwellings, which is often referred to as the 'fabric first' approach. This requirement can be also addressed through planning conditions and addressed through a reserved matters application.

The National Planning Practice Guidance - NPPG (Paragraph 012 Reference ID: 6-012-20190315) advised that: "*local planning authorities...can set energy performance standards for new housing or the adaptation of buildings to provide dwellings, that are higher than the building regulations, but only up to the equivalent of Level 4 of the Code for Sustainable Homes.*" It clarified that Code Level 4 is approximately 20% above Building Regulations. The Council's Supplementary Planning Document (the 'SPD') '*Creating Sustainable Buildings and Places in North Somerset*' 2021 says the Council require Code for Sustainable Homes Level 4 equivalent improvement in performance standards for all new residential development applications. This can be controlled through planning conditions and addressed through a reserved matters application.

Issue 10: Compatibility of housing with adjoining business uses

The 'Oxhouse' estate has planning permission for light industrial use except for one unit which has permission to be used as a gym. Such uses are normally compatible near residential properties. The Council received one noise related complaint in 2015 from activities at one unit. This was resolved and no complaints have been recorded with the Council since that time. A precautionary approach would be to ensure that the layout and design of dwellings minimise the potential for noise disturbance. There are no objections however to the principle of housing close to the adjoining business units.

Issue 11: Potential Land Contamination

The application includes a Geophysical 'walkover' Survey which assesses potential geo-environmental liabilities affecting the current and former uses of the site, together with any land contamination constraints on the proposed use. The results of this which are agreed by officers show that there are no reasons to prevent a housing development, but further investigative soil sampling will be required before development begins, together with any remediation should the core sample show this is necessary. This can be dealt with through planning conditions.

Issue 12: Historic Environment

The applicants 'Historic Environment Assessment' (HEA) notes that the proposed development site is approximately 525m to the north-west of the medieval motte at Castle Batch, which is designated as a Scheduled Monument. The combination of this distance and intervening housing development is unlikely to harm this asset or its setting.

The applicant submitted an Archaeological (Magnetometer) Survey of the site, followed by trial trenches (*Results of an Archaeological Trench Evaluation*). The Council's Archaeologist has advised that no archaeological features or deposits were encountered, and no further assessment is required.

The 'Listed' road bridge referred to in Issue 3 is approximately 650 metres from the application site. Some additional vehicles arising from the development are expected to travel over it, but officers do not consider this will undermine its integrity, but construction traffic will be precluded from using it.

There are no heritage related objections to the application.

Issue 13: Community Infrastructure Levy (CIL) and Planning Obligations

The Council's Community Infrastructure Levy (CIL) applies standard charge which developers must pay towards the cost of the infrastructure impacts arising from their development. Planning obligations can also apply, depending on the projected impacts of the proposal. In this case the following planning obligations would be required.

- 30% of the dwellings to be as 'affordable housing' to be on site as part of the development.
- Financial contribution of £122,500 towards employment support for those in the local labour market.
- Construction Phase 'Local Labour Agreement and Action Plan' bound by the principles of the 'Construction Training Industry Board Client Based Approach'.

- £120 per dwelling towards sustainable Travel
- The cost of installing and maintain ten fire hydrants
- On site Green Infrastructure including Neighbourhood Open Space; Woodland; a Conservation Site; green buffer zones; an equipped children's/toddler play area, and maintenance sums, unless these are paid for by a private management company

The applicant has confirmed their agreement to these obligations, which will be secured under a Section 106 legal agreement.

Summary and Planning Balance

Delivering more homes; market and affordable, has substantial social and economic benefits, and this is given “substantial” weight, when it is in the right location. Other social and economic benefits include construction jobs during the building phase, and the likelihood of additional spend in the local economy at shops, services and other facilities is likely to ensue from an increased local population. Construction impacts are temporary, and no evidence is presented to indicate that local shops or services for example are dependent on increased local spending. I give both elements “moderate” weight. The financial contributions towards employment off-set adverse impacts of out-commuting as required by policy CS20, and this has a neutral impact.

One of the most important policies in deciding this application is CS3. This fully accords with the NPPF and PPG, which make it clear that flood risk is a very important matter, and the best way to manage flood risk is to avoid development in areas of flood risk. CS3 says development in flood zones 2 and 3 will only be permitted where it passes sequential and exception tests. The applicant’s sequential test does not demonstrate that the development could not take place on land with a lower flood risk. The ST is therefore “failed” and the proposal conflicts with policy CS3 and paras 162 and 163 of the NPPF and the PPG. This is a matter of “very substantial weight” against the application. The exception test is also considered to be failed in that the wider sustainability benefits to the community would not outweigh the flood risk. This is contrary to policy CS3 and paras 159, 164 and 165 of the Framework.

The proposal can be made safe and accessible in terms of road, cycle, and bicycle access, subject to some localised foot and cycle path improvements and development contributions to sustainable travel tickets. The level of additional traffic can be satisfactorily accommodated on the local road network without causing severe adverse impacts.

The proposed development will cause some localised harm to the character and appearance of the landscape, although this is not a significant adverse impact. There are no landscape objections to the proposal having regard to policy CS5 of the CS or DM10 of the DMP.

In terms of biodiversity, insufficient information is provided with the application to conclude that artificial lighting would not unacceptably harm the European Protected Species (Bats). This is contrary to policy CS4 and DM8 and paragraphs 174, 179 and 180 of the NPPF. This may be resolved with further information.

On balance, the conflict with policy CS3 and referred paras from the NPPF and PPG outweighs the benefits of the application. The application is therefore recommended for refusal.

Recommendations

REFUSE, for the following reasons.

1. Housing development should only be permitted in a 'High Probability' (3a) floodplain when it is necessary, and where it has been demonstrated through a flood risk sequential test that there are no 'reasonably available' sites in areas with a lower flood risk where the development can be provided. The Council consider that the applicant's Flood Risk Sequential Test fails to demonstrate this, and the proposed development is therefore unnecessary in a "High Probability" floodplain, which is contrary to Policy CS3 of the North Somerset Local Plan, paragraphs 159, 162 and 163 of the National Planning Policy Framework.
2. The proposal does not demonstrate that the development would provide wider sustainability benefits to the community that outweigh the flood risk. This is contrary to Policy CS3 of the North Somerset Local Plan, paragraphs 164, and 165 of the National Planning Policy Framework.
3. The application has failed to demonstrate that the impacts of artificial lighting during construction and occupation of the proposed development, which has a clear potential to cause unacceptable harm to European Protected Species (Bats) which use the site, can be mitigated. This is contrary to policy CS4 of the North Somerset Core Strategy, policy DM8 of the North Somerset Sites and Policies Plan Part 1, and paragraphs 174, 179 and 180 of the National Planning Policy Framework.

Signed: Neil Underhay